

MONTANA LEGISLATIVE HISTORY

Chapter 243 19 74

Bill H \_\_\_\_\_ S 694 Original bill & history \_\_\_\_ C

H. Committee on Business + Industry S. Committee on State Administration

Hearing Date(s) 3-4 \_\_\_\_ C

Hearing Date(s) 2-11 \_\_\_\_ C

\_\_\_\_ C

2-13 \_\_\_\_ C

\_\_\_\_ C

\_\_\_\_ C

\_\_\_\_ C

\_\_\_\_ C

Date Out 3-4 \_\_\_\_ C

DATE OUT 3-4

Did this bill originate in an interim committee? \_\_\_\_ Yes \_\_\_\_ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

CHAPTER NO. 243.

SENATE BILL NO. 694

INTRODUCED BY BOLLINGER, KLINDT

IN THE SENATE

SECOND REGULAR SESSION

|                   |                                                                                                                        |
|-------------------|------------------------------------------------------------------------------------------------------------------------|
| January 18, 1974  | Considered read and referred to Committee on State Administration.                                                     |
| January 26, 1974  | By request time extended for additional seven days.                                                                    |
| February 4, 1974  | By request time extended for additional seven days.                                                                    |
| February 12, 1974 | By request time extended for additional seven days.                                                                    |
| February 14, 1974 | Committee recommend bill do pass. Report adopted. Referred to Bills Committee for printing.                            |
| February 16, 1974 | Reported correctly printed and placed on members' desks. Report adopted. Referred to second reading.                   |
| February 18, 1974 | Recommended favorably by Committee of the Whole. Report adopted. Referred to Bills Committee for engrossing.           |
|                   | Committee recommend bill be considered correctly engrossed. Report adopted and referred to calendar for third reading. |
|                   | On motion rules suspended. Bill placed on calendar for third reading this day.                                         |
|                   | Read third time and passed. Title and history agreed to. Transmitted to House for concurrence.                         |

IN THE HOUSE

|                   |                                                                                                                             |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------|
| February 19, 1974 | Considered read and referred to Committee on State Administration.                                                          |
| February 22, 1974 | On motion taken from State Administration and referred to Business and Industry.                                            |
| March 4, 1974     | Committee recommend that bill be concurred in. Report adopted. Bill referred to second reading.                             |
| March 6, 1974     | Committee of the Whole recommend that bill be concurred in. Report adopted and bill referred to calendar for third reading. |
| March 7, 1974     | Read third time and concurred in. Title and history agreed to. Returned to Senate.                                          |

IN THE SENATE

|               |                                            |
|---------------|--------------------------------------------|
| March 8, 1974 | Referred to Bills Committee for enrolling. |
|               | Reported correctly enrolled.               |

AN ACT AMENDING SECTIONS 8-108, 8-109, 8-110 AND 8-111, R.C.M. 1947, TO FINANCE DISSEMINATION OF NOTICE OF PUBLIC HEARINGS REGARDING THE PUBLIC CONVENIENCE AND NECESSITY FOR GRANTING MOTOR CARRIER AUTHORITY; TO PROVIDE FOR THE PUBLICATION OF SUCH NOTICE IN THE LEGAL ADVERTISING SECTION OF APPROPRIATE NEWSPAPERS; AND ADDING TWO (2) NEW SECTIONS TO TITLE 8, R.C.M. 1947, TO PROVIDE FOR THE GIVING OF SUCH NOTICE TO THE MONTANA CONSUMER COUNSEL; AND TO MAKE REFERENCE TO THE AVAILABILITY OF THE MONTANA CONSUMER COUNSEL IN NOTICES OF HEARINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 8-108, R.C.M. 1947, is amended to read as follows:

"8-108. Certificate required of class A motor carriers -- contents of application -- fee. (a) No class A motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the board, under the provisions of this act, a certificate declaring that public convenience and necessity require such operation.

(b) A motor carrier making application for such certificate shall do so in writing, separately for each route, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and

addresses of its officers, if any.

2. The public highway or highways over which, and the fixed termini between which, or the regular route or routes over which it intends to operate.

3. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

4. The proposed time schedule.

5. A schedule of the tariff or rates desired to be charged for the transportation of freight and/or passengers.

6. A complete and detailed description of the property proposed to be devoted to the public service.

7. A detailed statement showing the assets and liabilities of such applicant.

8. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a filing fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, and an additional sum to be set by the board to pay the cost of publishing hearing in the legal advertising sections of an appropriate newspaper or newspapers."

Section 2. Section 8-109, R.C.M. 1947, is amended to read as follows:

"8-109. Certificate required of class B motor carriers -- contents of application -- fee. (a) No class B motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway, in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operations.

(b) A motor carrier making application for such permit shall do so in writing, separately for each locality for which consideration is desired, which petition shall be verified and shall specify the following matters:

1. Name and address of the applicant and the names and addresses of its officers, if any.

2. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

3. The locality and character of operations to be conducted.

4. A schedule of the tariff of rates desired to be charged for the transportation of freight and/or passengers.

5. A complete and detailed description of the property

proposed to be devoted to the public service.

6. A detailed statement showing the assets and liabilities of such applicant.

7. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a filing fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, and an additional sum to be set by the board to pay the cost of publishing notice of hearing in the legal advertising sections of appropriate newspaper or newspapers."

Section 3. Section 8-110, R.C.M. 1947, is amended to read as follows:

"8-110. Certificate required of class C motor carriers -- contents of application -- fee. (1) (a) No class C motor carrier as in this act defined, except any class C motor carrier operating pursuant to the terms and conditions of a United States government contract, agency or department thereof, shall hereafter operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities, or for the transportation of persons on any public highway in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operation.

(b) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which

consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highways or highways over which and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed; or the particular city, town, station, or locality from and/or to which the applicant intends to operate.

3. The kind of transportation, the character of the goods, wares, merchandise, or commodities to be distributed, delivered or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery or collection.

4. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, and an additional sum to be set by the board to pay the cost of publishing notice of hearing in the legal advertising sections of an appropriate newspaper or newspapers.

(2) The transportation for hire of any persons or commodities between any two (2) points within the state of Montana



by any motor carrier pursuant to the terms of a written contract between said carrier and the United States government, agency or department thereof, shall be deemed a transportation movement subject to the provisions of the Montana Motor Carrier Act, R. C. M., 1947, 8-101 et seq., provided, however, that the presentation of the written contract to the board shall be deemed sufficient proof of public convenience and necessity in accordance with the terms and conditions contained within the United States government contract.

The class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government contract may be issued by the board upon receipt of an executed copy of the United States government contract. The certificate of public convenience and necessity may be issued thereafter without requiring the board to fix a time and place for public hearing.

The certificate of public convenience and necessity, issued pursuant to the terms of the United States government contract, is authorized only for the duration of the United States government contract concerned, provided, however, the certificate may be renewed for another definite term if the same motor carrier is the motor carrier authorized to operate under the United States government contract."

Section 4. Section 8-111, R.C.M. 1947, is amended to read as follows:

"8-111. Hearing to consider applications -- notice -- matters considered -- manner of conducting hearings. Upon the filing of such application by a class A or class B or class C motor carrier, except a class C motor carrier authorized to operate under the terms of a United States government contract, agency or department thereof, the board shall fix a time and place for hearing thereon, which shall not be less than ten (10) days after such filing. The board shall cause a copy of such petition and notice of hearing thereon to be served upon an officer or owner of any motor carrier that in the opinion of the board might be affected by the granting of any such certificate and upon any railroad company operating into or through any town or city located on the proposed route of the applicant, and upon the state highway commission, at least ten (10) days before the date of hearing, and any such motor carrier or railroad company, and the state highway commission, and the governing board or boards of any such county, town or city into or through which such route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to such proceedings, and may offer testimony for or against the granting of such certificate. Notice of such hearing shall be published in the legal advertising section of a local newspaper or newspapers deemed by the commission to have a circulation sufficient to reach the consuming public in the area under consideration, for applications for class C authority and geographically limited

class B authority, and in appropriate newspapers deemed by the commission to have sufficient statewide circulation in the case of applications for class A authority and geographically broad contemplated class B authority. The submission of a class C motor carrier application must be accompanied by the names and addresses of any person, firm, corporation or other legal entity with whom the applicant has executed a contract for the distribution, delivery or collection of wares, merchandise or commodities, or transporting persons. Such contracts must be in writing, executed by the parties, and submitted to this commission for examination. The contracting parties must appear and offer testimony in support of the applicant. If after hearing upon application for a certificate, the board shall find, from the evidence, that public convenience and necessity require the authorization of the service proposed, or any part thereof as the board shall determine, a certificate therefor shall be issued. In determining whether or not a certificate should be issued, the board shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad, or other existing transportation agency, and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout twelve (12) months of the year and the effect which such proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed

transportation service or that might be affected thereby. Provided, however, that an application by a class A or a class B or a class C motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the board that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the board that public convenience and necessity do not require such proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over said route or in said territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require such motor carrier operation.

Provided further that any investigation, inquiry or hearing which the board has power to undertake or to hold, under the provisions of this act, may be undertaken or held by or before any member of the board, or by and before any agent or examiner of the board designated for the purpose by the board, and every finding, order, or decision made by a member of the board, or agent or examiner of the board so designated, together with a statement in writing of the reasons therefor which statement must be included in such finding, or order or decision, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the board and ordered filed in its office, shall be, and be deemed

to be the finding, order or decision of the board; provided also, that any agent or examiner of the board designated as aforesaid, shall have power to administer oaths, examine witnesses and receive evidence."

Section 5. There is a new section to be numbered 8-901, R.C.M. 1947, which reads as follows:

8-901. Notice to be served on consumer counsel. In addition to all other forms of notice of hearings conducted by the public service commission provided for in this title, notices of all hearings shall be served upon the Montana consumer counsel.

Section 6. There is a new section to be numbered 8-902, R.C.M. 1947, which reads as follows:

8-902. Notice to advise public of availability of consumer counsel. All forms of notice of public hearings conducted by the public service commission under this title, including all notices posted in public places or published in the legal advertising sections of newspapers, shall advise members of the consuming public of the existence of the office of the Montana consumer counsel and its availability to function on behalf of members of the consuming public.

I hereby certify that the  
within bill originated in  
the Senate.

John N. Hanson  
Secretary of the Senate

Wendell M. Miller  
President of the Senate  
Signed this 11<sup>th</sup> day  
of March, 1974.

Harold E. Gure  
Speaker of the House  
Signed this 12<sup>th</sup> day  
of March, 1974.

SENATE BILL NO. 694

INTRODUCED BY BOLLINGER, KLINDT

AN ACT AMENDING SECTIONS 8-108, 8-109, 8-110 AND 8-111, R.C.M. 1947, TO FINANCE DISSEMINATION OF NOTICE OF PUBLIC HEARINGS REGARDING THE PUBLIC CONVENIENCE AND NECESSITY FOR GRANTING MOTOR CARRIER AUTHORITY; TO PROVIDE FOR THE PUBLICATION OF SUCH NOTICE IN THE LEGAL ADVERTISING SECTION OF APPROPRIATE NEWSPAPERS; AND ADDING TWO (2) NEW SECTIONS TO TITLE 8, R.C.M. 1947, TO PROVIDE FOR THE GIVING OF SUCH NOTICE TO THE MONTANA CONSUMER COUNSEL; AND TO MAKE REFERENCE TO THE AVAILABILITY OF THE MONTANA CONSUMER COUNSEL IN NOTICES OF HEARINGS.

STATE OF MONTANA  
DEPARTMENT OF SECRETARY OF STATE  
FILED  
March 21 1974  
AT 1:40 P M  
Frank Murray  
SECRETARY OF STATE  
BY John Woodger  
DEPUTY

March 14 day  
March 1974  
Thomas J. George  
3-21-74  
Thomas J. George

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

February 11, 1974

The fifteenth meeting of the State Administration Committee was called to order by Chairman David F. James at 8:00 a.m. on Monday, February 11, in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Darrow, Sorenson, and Story who were excused.

SENATE BILL NO. 693: "An act to amend the State Budget Act, allowing for changes in budget format and clarifying and adjusting the language of certain sections."

Senator Bollinger, chief sponsor of the bill, submitted some amendments to Senate Bill 693 for the committee's consideration. He stated that the amendments would put this bill in line with Senate Bill 488, which the committee passed out on January 14 with a DO PASS recommendation.

Mr. Doyle Saxby, Director of the Department of Administration, testified as a proponent of this bill. He stated that the purpose of this bill was to change the format of the budget book in accordance with the executive reorganization act. He said he and others had made a similar presentation to the joint Finance and Claims Committee during the summer interim, and that they were pleased with what this bill attempts to do. Mr. Saxby further stated that this would help tie in with the state accounting system, and make much more meaningful information available.

Mr. William R. Palmer, Department of Administration, also testified as a proponent of this bill. He submitted a copy of the 1975-77 Executive Budget format proposal to each member of the committee, and then explained this with use of a slide film.

SENATE BILL NO. 694: "An act to finance dissemination of notice of public hearings regarding the public convenience and necessity for granting motor carrier authority."

Senator Bollinger, chief sponsor, explained his bill. He stated that the Consumer Counsel committee had met two or three times in the interim to discuss what would make for better operation of the Consumer Counsel Department. They came up with three specific proposals, and explained that these had to be contained in three separate bills since they concern three separate items.

Mr. Geoffrey L. Brazier, Consumer Counsel, testified as a proponent of this bill. Mr. Brazier stated that the Consumer Counsel was created by the new Constitution, in an effort to solve some of the controversy surrounding the Public Service Commission. It is the function of this Counsel to represent the interests of consumers before the Public Service Commission. He stated further that the Counsel has not been completely staffed and organized since they are proceeding carefully, and he believes they have laid a good foundation for work. Among other things,



STATE ADMINISTRATION

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February 11, 1974

the Consumer Counsel has the authority to recommend remedial legislation, and this bill represents their first experience in this area. Mr. Brazier stated further that he found no opposition to what this bill suggests, but felt it should be in the law in case future Public Service Commissioners were not so cooperative in these matters. He felt this bill would enable him to get an indication of the public's concerns, since the notices published would have to make reference to the fact that the Consumer Counsel is available to protect the public interest. In answer to a question by Senator Rosell, Mr. Brazier stated that this bill would cost the state no further revenue.

SENATE BILL NO. 648: "An act to provide for the giving of notice of public hearings regarding the regulation of the business of railroads to the Montana Consumer Counsel."

SENATE BILL NO. 649: "An act to provide for the giving of notice of public hearings regarding the regulation of utilities to the Montana Consumer Counsel."

Senate Bills 648 and 649 were discussed together, since the same subject matter is contained in both, except that they refer to different businesses. Senator Klindt gave a short explanation, stating that Senate Bill 694 contains the same basic ideas as these two bills. Senator Klindt felt that when people find out there is a Consumer Counsel to back them up and help represent their interests, they will be more apt to come forth with their concerns. A lengthy discussion followed, with questions from the committee members.

SENATE BILL NO. 539: "An act to provide for a five member elected Public Service Commission from five districts apportioned on the basis of population."

Senator Bennett had been on a subcommittee to study this bill, and he explained some proposed amendments to the bill, a copy of which is attached. There followed a short discussion.

Senator Bennett made a motion that the committee adopt the amendments to Senate Bill 539. The motion was seconded by Senator Rosell, and carried unanimously.

Senator Bennett then made a motion that the committee recommend that Senate Bill 539 DO PASS AS AMENDED. The motion was seconded by Senator Divine, and carried unanimously.

#### DISPOSITION OF BILLS:

SENATE BILL 694: Senator McDonald made a motion that the committee recommend Senate Bill 694 DO NOT PASS. The motion was seconded by Senator Rosell. A discussion followed. Some of the members felt that these bills were unnecessary, since the function of the Consumer Counsel is to take care of the public interest. Another consideration was that the applicant for authority would be hit with too high a fee, while others felt the cost would be easily affordable by the applicants in view of their profits. A vote was taken, and ended in a tie.

STATE ADMINISTRATION

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February 11, 1974

Senator Bennett then made a motion that the committee defer action on Senate Bills 694, 648, and 649 until they had a chance to contact the Public Service Commission and do further study on them. The motion was seconded by Senator Rosell, and carried unanimously.

SENATE BILL 693: Senator Rosell made a motion that the committee adopt the amendments to Senate Bill 693. The motion was seconded by Senator Bennett, and carried unanimously.

Senator Rosell then made a motion that the committee recommend Senate Bill 693 DO PASS AS AMENDED. The motion was seconded by Senator Divine and carried unanimously.

SENATE JOINT RESOLUTION NO. 62: "A joint resolution of the Senate and the House requesting the committee on priorities to assign a joint subcommittee to study all aspects of licensing done by state and local governmental units in Montana, except as related to motor vehicles and fish and game licenses."

Senator Bollinger, sponsor of the bill, felt that our system of licensing is in a horrible state, and hoped that a joint committee would come up with some ideas on combining some of the licenses, and coordinate efforts at the state, county, and local level.

Mr. Rod Gudgel testified as a proponent of SJR 62, and stated that he represents himself on this matter. He referred to this committee's action on Senate Bill 606 in which they amended the expenses from \$30 down to \$25 to keep it in uniformity with what other board's are receiving. Mr. Gudgel felt this same kind of uniformity should be followed in licensing, and he therefore supports this bill. Senator Divine brought up the point that we may find some of our licenses to be unconstitutional.

Senator Divine then made a motion that the committee recommend Senate Joint Resolution 62 DO PASS. The motion was seconded by Senator Nees, and carried unanimously.

SENATE BILL 641: Chairman James reminded the committee that they had given a DO PASS recommendation to this bill on February 6, but that he had held it back on request from Senator Rosell, who was excused during that meeting. Senator Rosell explained her objections to the bill, and suggested that Senate Bill 641 be amended on page 1, lines 18 through 20 by reinserting the stricken material; and further amending page 1, line 20, following the word "psychiatry" by inserting the words "or a". Senator Bennett brought up a question regarding the wording on lines 15 through 17 which state that "The superintendent of the Warm Springs state hospital is the supervisor of the division of mental hygiene."

A lengthy discussion among the committee members followed. It was decided that the Chairman should request Mr. Ed Kellner to appear before the committee on Wednesday, February 13 in order to get his opinion of the bill.

STATE ADMINISTRATION

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February 13, 1974

Judge Jack Green, of Missoula, appeared as a proponent of Senate Bill 703 and said that he represented the Montana Judges Association. He quoted some statistics to the committee on the cost of living. He explained that the new Constitution has limited judges even further from other sources of income. Judge Green then read some comments from a letter he had received from Chief Justice Berger. In answer to a question, he stated that 25% of the court fees are earmarked for the judges retirement system.

Judge Wesley Castles, Helena, stated that there had been an actuarial study of the judges retirement system recently, and he felt it was probably the soundest of all retirement systems and doesn't think this bill would cause a problem in funding these retirements.

Mr. Dave Hansen, Montana Republican Party, stated that he was not appearing as either a proponent or an opponent, but merely to give some information for consideration by the committee on fringe benefits of state offices. He enumerated the benefits to the Office of Governor, which included a car for both official and private use, upkeep of the Governor's Mansion which included the full-time services of a cook and housekeeper, repair of household appliances, a food budget of about \$640 per month, and use of an airplane. He estimated the fringe benefits of this office to be between \$50,000 and \$100,000 per year. Mr. Hansen felt the Salary Commission should have put these things into their report and that they should have been considered in setting salary recommendations.

#### DISPOSITION OF BILLS:

SENATE BILL 648: Senator Rosell made a motion to amend Senate Bill 648 by deleting Section 2 in its entirety. The motion was seconded by Senator McDonald, but did not carry.

Senator Devine made a motion that the committee recommend Senate Bill 648 DO PASS. The motion was seconded by Senator Bennett, and carried.

SENATE BILL 649: Senator Bennett made a motion that the committee recommend Senate Bill 649 DO PASS. The motion was seconded by Senator Devine, and carried.

SENATE BILL 694: Senator Bennett made a motion that the committee recommend Senate Bill 694 DO PASS. The motion was seconded by Senator Devine. A short discussion followed the motion. A vote was taken, and the motion passed.

SENATE BILL NO. 703: The committee held a long discussion over what action to take on this bill. It was noted that these salaries would be an increase of 40% to 60% over what they are presently, and they therefore agreed on the following amendments:

Amend the introduced bill on page 1, Section 1, line 19, by striking the new figure "~~636,444~~" and inserting in lieu thereof

# BUSINESS AND INDUSTRY COMMITTEE

1974 Legislature

| Bill No. | Subject Matter                                                                                                                                                            | Date In | Sponsor   | Hearing Date | Committee Action                 | Date Out |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------|--------------|----------------------------------|----------|
| SB 679   | Extending the amount of credit life insurance and credit disability insurance and requiring the amount of insurance in such policies to equal the amount of indebtedness. | 2/21/74 | Moore     | 3/4/74       | AS SO AMENDED<br>BE CONCURRED IN | 3/4/74   |
| SB 670   | Making certain acts of brewers illegal and providing that all agreements, contracts or franchises be filed with the Montana Liquor Control Board.                         | 2/22/74 | Devine    | 3/4/74       | AS SO AMENDED<br>BE CONCURRED IN | 3/4/74   |
| SB 694   | Finance dissemination of notice of public hearings regarding the public convenience and necessity for granting motor carrier authority.                                   | 2/25/74 | Bollinger | 3/4/74       | BE CONCURRED IN                  | 3/4/74   |

BUSINESS AND INDUSTRY COMMITTEE

March 4, 1974

The Business and Industry Committee meeting was called to order this date at 10:00 a.m. with Chairman Mehrens presiding. Rep Rolfe was excused and Reps Lockrem and Mercer were absent.

SB 679 - Senator Moore, chief sponsor, explained the bill. He said it was introduced to require that the credit of life insurance shall not exceed the indebtedness. Phil Bird, ALIA, opposed the bill (see attachment). He also stated that it would substantially change the laws for the credit field as far as providing life insurance.

SJR 63 - Senator Bollinger, chief sponsor, spoke in favor of the resolution. He stated that Montana rail rates seemed out of line and that this resolution could help alleviate the problem. There were no opponents.

SB 649 - Senator Bollinger, chief sponsor, introduced Geoffrey L. Brazier, who explained the bill. Mr. Brazier stated that this bill was one of three bills that deal with the act of giving notice of public hearings by the PSC to make the public aware of the availability of the Consumer Counsel to serve the public. SB 648 and SB 649 are identical except one relates to railroads and one to utilities. There were no opponents.

SB 694 - Senator Bollinger, chief sponsor, explained the bill. This bill provides the financing of notices of public hearings regarding the public convenience and necessity for granting motor carrier authority. The motor carrier would also have to make reference to the availability of the Montana Consumer Counsel in notices of hearings. There were no opponents.

SB 570 - Senator Devine, chief sponsor, explained the bill (see attachments). Al Dougherty, Montana Beer Wholesalers' Assn, rose in support of the bill. He said that under this bill brewers would be required to deal with all wholesalers on an equitable basis. Section 2 explains what areas the discrimination could occur in and what can be prevented. Section 3 puts in language the provisions that no licensed beer wholesaler shall sell or deliver beer to any retail beer licensee unless the wholesaler shall have filed with the department of revenue a schedule of net prices to be charged the retail beer licensees for all brands and container sizes. Section 4 provides that an increase or reduction shall continue in force and effect for at least 60 days. Twenty-one states have enacted similar legislation. Other proponents included Chan Libbey, Sr., Leon J. Messerly and Glenn R. Fink (see attachments).

Bruce L. Watkins rose in opposition. He stated that this bill would stop all sales promotions in the beer industry.

STATE LAW LIBRARY

MAR 24 1986

OF MONTANA

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INTRODUCED BY

SENATE BILL NO. 694

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8-108, 8-109, 8-110, 8-111

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS

7

8-108, 8-109, 8-110 AND 8-111, R.C.M. 1947, TO FINANCE

8

DISSEMINATION OF NOTICE OF PUBLIC HEARINGS REGARDING THE

9

PUBLIC CONVENIENCE AND NECESSITY FOR GRANTING MOTOR CARRIER

10

AUTHORITY; TO PROVIDE FOR THE PUBLICATION OF SUCH NOTICE IN

11

THE LEGAL ADVERTISING SECTION OF APPROPRIATE NEWSPAPERS; AND

12

ADDING TWO (2) NEW SECTIONS TO TITLE 8, R.C.M. 1947, TO

13

PROVIDE FOR THE GIVING OF SUCH NOTICE TO THE MONTANA

14

CONSUMER COUNSEL; AND TO MAKE REFERENCE TO THE AVAILABILITY

15

OF THE MONTANA CONSUMER COUNSEL IN NOTICES OF HEARINGS."

16

17

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18

Section 1. Section 8-108, R.C.M. 1947, is amended to

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read as follows:

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"8-108. Certificate required of class A motor

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carriers--contents of application--fee. (a) No class A motor

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carrier, as in this act defined, shall hereafter operate for

the transportation of persons and/or property for hire on

any public highway in this state without first having

obtained from the board, under the provisions of this act, a

1 certificate declaring that public convenience and necessity  
2 require such operation.

3 (b) A motor carrier making application for such  
4 certificate shall do so in writing, separately for each  
5 route, which petition shall be verified by the applicant and  
6 shall specify the following matters:

7 1. The name and address of the applicant and the names  
8 and addresses of its officers, if any.

9 2. The public highway or highways over which, and the  
10 fixed termini between which, or the regular route or routes  
11 over which it intends to operate.

12 3. The kind of transportation, whether passenger or  
13 freight, or both, together with a full and complete  
14 description of the character of the vehicle or vehicles to  
15 be used, including the seating capacity of any vehicle to be  
16 used for passenger traffic and the tonnage capacity of any  
17 vehicle to be used in freight traffic.

18 4. The proposed time schedule.

19 5. A schedule of the tariff or rates desired to be  
20 charged for the transportation of freight and/or passengers.

21 6. A complete and detailed description of the property  
22 proposed to be devoted to the public service.

23 7. A detailed statement showing the assets and  
24 liabilities of such applicant.

25 8. And such other or additional information as the

1 board may by order require.

2 (c) Such application shall be accompanied by a filing  
3 fee of fifteen dollars (\$15.00) to thirty-five dollars  
4 (\$35.00) to be set by the board based on the number of  
5 counties for which the certificate is requested, and an  
6 additional sum to be set by the board to pay the cost of  
7 publishing hearing in the legal advertising sections of an  
8 appropriate newspaper or newspapers."

9 Section 2. Section 8-109, R.C.M. 1947, is amended to  
10 read as follows:

11 "8-109. Certificate required of class B motor  
12 carriers--contents of application--fee. (a) No class B motor  
13 carrier, as in this act defined, shall hereafter operate for  
14 the transportation of persons and/or property for hire on  
15 any public highway, in this state, without first having  
16 obtained from the board, under the provisions of this act, a  
17 certificate that public convenience and necessity require  
18 such operations.

19 (b) A motor carrier making application for such permit  
20 shall do so in writing, separately for each locality for  
21 which consideration is desired, which petition shall be  
22 verified and shall specify the following matters:

23 1. Name and address of the applicant and the names and  
24 addresses of its officers, if any.

25 2. The kind of transportation, whether passenger or



1 freight, or both, together with a full and complete  
2 description of the character of the vehicle or vehicles to  
3 be used, including the seating capacity of any vehicle to be  
4 used for passenger traffic and the tonnage capacity of any  
5 vehicle to be used in freight traffic.

6 3. The locality and character of operations to be  
7 conducted.

8 4. A schedule of the tariff of rates desired to be  
9 charged for the transportation of freight and/or passengers.

10 5. A complete and detailed description of the property  
11 proposed to be devoted to the public service.

12 6. A detailed statement showing the assets and  
13 liabilities of such applicant.

14 7. And such other or additional information as the  
15 board may by order require.

16 (c) Such application shall be accompanied by a filing  
17 fee of fifteen dollars (\$15.00) to thirty-five dollars  
18 (\$35.00) to be set by the board based on the number of  
19 counties for which the certificate is requested, and an  
20 additional sum to be set by the board to pay the cost of  
21 publishing notice of hearing in the legal advertising  
22 sections of appropriate newspaper or newspapers."

23 Section 3. Section 8-110, R.C.M. 1947, is amended to  
24 read as follows:

25 "8-110. Certificate required of class C motor

1 carriers--contents of application--fee. (1) (a) No class C  
2 motor carrier as in this act defined, except any class C  
3 motor carrier operating pursuant to the terms and conditions  
4 of a United States government contract, agency or department  
5 thereof, shall hereafter operate for the distribution,  
6 delivery, or collection of goods, wares, merchandise, or  
7 commodities, or for the transportation of persons on any  
8 public highway in this state, without first having obtained  
9 from the board, under the provisions of this act, a  
10 certificate that public convenience and necessity require  
11 such operation.

12 (b) A motor carrier making application for such permit  
13 shall do so in writing, separately for each route or  
14 locality for which consideration is desired, which petition  
15 shall be verified by the applicant and shall specify the  
16 following matters:

17 1. The name and address of the applicant and the names  
18 and addresses of its officers, if any.

19 2. The public highways or highways over which and the  
20 fixed termini between which, or the route or routes over  
21 which it intends to operate, if the same are fixed; or the  
22 particular city, town, station, or locality from and/or to  
23 which the applicant intends to operate.

24 3. The kind of transportation, the character of the  
25 goods, wares, merchandise, or commodities to be distributed,

1 delivered or collected, together with a full and complete  
2 description of the character of the vehicle or vehicles,  
3 including the rated tonnage capacity of such vehicles, to be  
4 used in such service of distribution, delivery or  
5 collection.

6 4. And such other or additional information as the  
7 board may by order require.

8 (c) Such application shall be accompanied by a fee of  
9 fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to  
10 be set by the board based on the number of counties for  
11 which the certificate is requested, and an additional sum to  
12 be set by the board to pay the cost of publishing notice of  
13 hearing in the legal advertising sections of an appropriate  
14 newspaper or newspapers.

15 (2) The transportation for hire of any persons or  
16 commodities between any two (2) points within the state of  
17 Montana by any motor carrier pursuant to the terms of a  
18 written contract between said carrier and the United States  
19 government, agency or department thereof, shall be deemed a  
20 transportation movement subject to the provisions of the  
21 Montana Motor Carrier Act, R. C. M., 1947, 8-101 et seq.,  
22 provided, however, that the presentation of the written  
23 contract to the board shall be deemed sufficient proof of  
24 public convenience and necessity in accordance with the  
25 terms and conditions contained within the United States

1 government contract.

2 The class C certificate of public convenience and  
3 necessity issued pursuant to the terms and conditions of the  
4 United States government contract may be issued by the board  
5 upon receipt of an executed copy of the United States  
6 government contract. The certificate of public convenience  
7 and necessity may be issued thereafter without requiring the  
8 board to fix a time and place for public hearing.

9 The certificate of public convenience and necessity,  
10 issued pursuant to the terms of the United States government  
11 contract, is authorized only for the duration of the United  
12 States government contract concerned, provided, however, the  
13 certificate may be renewed for another definite term if the  
14 same motor carrier is the motor carrier authorized to  
15 operate under the United States government contract."

16 Section 4. Section 8-111, R.C.M. 1947, is amended to  
17 read as follows:

18 "8-111. Hearing to consider applications--  
19 notice--matters considered--manner of conducting hearings.  
20 Upon the filing of such application by a class A or class B  
21 or class C motor carrier, except a class C motor carrier  
22 authorized to operate under the terms of a United States  
23 government contract, agency or department thereof, the board  
24 shall fix a time and place for hearing thereon, which shall  
25 not be less than ten (10) days after such filing. The board

1 shall cause a copy of such petition and notice of hearing  
2 thereon to be served upon an officer or owner of any motor  
3 carrier that in the opinion of the board might be affected  
4 by the granting of any such certificate and upon any  
5 railroad company operating into or through any town or city  
6 located on the proposed route of the applicant, and upon the  
7 state highway commission, at least ten (10) days before the  
8 date of hearing, and any such motor carrier or railroad  
9 company, and the state highway commission, and the governing  
10 board or boards of any such county, town or city into or  
11 through which such route or service as proposed may extend,  
12 and any person or corporation concerned are hereby declared  
13 to be interested parties to such proceedings, and may offer  
14 testimony for or against the granting of such certificate.  
15 Notice of such hearing shall be published in the legal  
16 advertising section of a local newspaper or newspapers  
17 deemed by the commission to have a circulation sufficient to  
18 reach the consuming public in the area under consideration,  
19 for applications for class C authority and geographically  
20 limited class B authority, and in appropriate newspapers  
21 deemed by the commission to have sufficient statewide  
22 circulation in the case of applications for class A  
23 authority and geographically broad contemplated class B  
24 authority. The submission of a class C motor carrier  
25 application must be accompanied by the names and addresses

1 of any person, firm, corporation or other legal entity with  
2 whom the applicant has executed a contract for the  
3 distribution, delivery or collection of wares, merchandise  
4 or commodities, or transporting persons. Such contracts  
5 must be in writing, executed by the parties, and submitted  
6 to this commission for examination. The contracting parties  
7 must appear and offer testimony in support of the applicant.  
8 If after hearing upon application for a certificate, the  
9 board shall find, from the evidence, that public convenience  
10 and necessity require the authorization of the service  
11 proposed, or any part thereof as the board shall determine,  
12 a certificate therefor shall be issued. In determining  
13 whether or not a certificate should be issued, the board  
14 shall give reasonable consideration to the transportation  
15 service being furnished or that will be furnished by any  
16 railroad, or other existing transportation agency, and shall  
17 give due consideration to the likelihood of the proposed  
18 service being permanent and continuous throughout twelve  
19 (12) months of the year and the effect which such proposed  
20 transportation service may have upon other forms of  
21 transportation service which are essential and indispensable  
22 to the communities to be affected by such proposed  
23 transportation service or that might be affected thereby.  
24 Provided, however, that an application by a class A or a  
25 class B or a class C motor carrier for a certificate may be

1 disallowed without a public hearing thereon when it appears  
2 from the records of the board that the route or territory  
3 sought to be served by the applicant has previously been  
4 made the basis of a public investigation and finding by the  
5 board that public convenience and necessity do not require  
6 such proposed motor carrier service unless it is made to  
7 affirmatively appear in the application by a recital of the  
8 facts that conditions obtaining over said route or in said  
9 territory and affecting transportation facilities therein  
10 have materially changed since said public investigation and  
11 finding and that public convenience and necessity do now  
12 require such motor carrier operation.

13        Provided further that any investigation, inquiry or  
14 hearing which the board has power to undertake or to hold,  
15 under the provisions of this act, may be undertaken or held  
16 by or before any member of the board, or by and before any  
17 agent or examiner of the board designated for the purpose by  
18 the board, and every finding, order, or decision made by a  
19 member of the board, or agent or examiner of the board so  
20 designated, together with a statement in writing of the  
21 reasons therefor which statement must be included in such  
22 finding, or order or decision, pursuant to such  
23 investigation, inquiry or hearing, when approved and  
24 confirmed by the board and ordered filed in its office,  
25 shall be, and be deemed to be the finding, order or decision

1 of the board; provided also, that any agent or examiner of  
2 the board designated as aforesaid, shall have power to  
3 administer oaths, examine witnesses and receive evidence."

4 Section 5. There is a new section to be added to Title  
5 8, R.C.M. 1947, which reads as follows:

6 Notice to be served on consumer counsel. In addition  
7 to all other forms of notice of hearings conducted by the  
8 public service commission provided for in this title,  
9 notices of all hearings shall be served upon the Montana  
10 consumer counsel.

11 Section 6. There is a new section to be added to Title  
12 8, R.C.M. 1947, which reads as follows:

13 Notice to advise public of availability of consumer  
14 counsel. All forms of notice of public hearings conducted  
15 by the public service commission under this title, including  
16 all notices posted in public places or published in the  
17 legal advertising sections of newspapers, shall advise  
18 members of the consuming public of the existence of the  
19 office of the Montana consumer counsel and its availability  
20 to function on behalf of members of the consuming public.

-End-



☐ BE HELD OVER

MR. **PRESIDENT:**

**STATE ADMINISTRATION**

We, your committee on

**SENATE**

Bill No. **694**

having had under consideration

**SENATE**

Bill No. **694**

Respectfully report as follows: That

DO PASS

**DAVID F. JAMES**, Chairman.

# ORIGINAL

## SENATE *Bill No. 694*

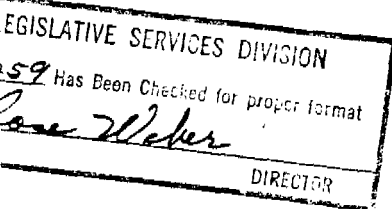
MAR 11 1974

Reported correctly enrolled  
Report adopted

**SIGNED by PRESIDENT**

MAR 18 1974

Verified and checked with Journal  
and found correct



and Regular Session

JAN 1 1974

considered Read & Referred  
Committee on

JAN 2 1974

request time extended  
additional 7 days.

FEB 4 1974

request time extended  
additional 7 days.

FEB 12 1974

request time extended  
additional 7 days.

FEB 14 1974

Committee recommend bill do pass.  
Report adopted. Referred to Bills  
Committee for printing.

FEB 16 1974

Reported correctly printed and  
placed on member's desks.  
Report adopted referred to  
2nd reading.

FEB 18 1974

COMMENDED FAVORABLY BY  
COMMITTEE OF THE WHOLE. RE-  
PORT ADOPTED. REFERRED TO  
BILLS COMMITTEE FOR ENGROSS-

Committee recommend Bill be  
considered correctly engrossed.  
Report adopted and referred to  
Calendar for third reading.

On motion rules suspended. Bill  
placed on Calendar for Third Reading  
this day.

Read third time and passed. Title  
and history agreed to. Transmitted  
to House for Concurrence.

IN THE HOUSE

FEB 18 1974

Considered read and referred

*State Administration*  
*Administration*

FEB 21 1974

ON MOTION TAKEN FROM  
*State Administration*  
AND REFERRED TO  
*Business & Industry*

MAR 4 1974

Committee recommend that bill be  
concurred in. Report adopted.  
Bill referred to Second Reading.

MAR 6 1974

Com. of the whole recommend that bill  
be concurred in. Report adopted and Bill  
referred to Cal. for Third Reading.

MAR 7 1974

Read third time and concurred in.  
Title and history agreed to.  
Returned to Senate.

MAR 8 1974  
In the Senate

Referred to Bills Committee for enrolling

Section 3. There is a new section to be numbered 82-3315.3, R.C.M. 1947, which reads as follows:

82-3315.3. **Security pledge.** To insure an adequate security provision for the lessor, the full faith and credit and taxing powers of the state of Montana are pledged in the amount necessary for the payment of rent incurred pursuant to a contract authorized by this act.

Section 4. There is a new section to be numbered 82-3315.4, R.C.M. 1947, which reads as follows:

82-3315.4. **Appointment of architect.** The department of administration may appoint an architect to draw plans and specifications for the construction of a building authorized by this act, subject to the approval of the state board of examiners.

Section 5. There is a new section to be numbered 82-3315.5, R.C.M. 1947, which reads as follows:

82-3315.5. **Contract provisions.** The rental contract shall be for a period not to exceed twenty (20) years with an option to purchase at the end of specific periods determined by the department of administration and clearly defined in the contract for each individual project. The option to purchase at the end of the contract period shall not exceed the amount of fifty thousand dollars (\$50,000). The contract shall provide for the appointment of a trustee with sufficient powers to protect the state's interest in the building and any property conveyed as a building site. The contract shall contain such other provisions as determined by the department of administration to be necessary.

Section 6. There is a new section to be numbered 82-3315.6, R.C.M. 1947, which reads as follows:

82-3315.6. **Rent payments.** Each month the department or departments occupying the building shall pay rent in an amount determined by the department of administration to be sufficient to pay the total cost of renting and maintaining the building. All rents collected shall be deposited in a separate account and are hereby appropriated for the purpose of paying the contracted rental payments and the expense of maintaining the building. At any time the amount in the account is insufficient to pay a rental payment that is due, the department of administration is authorized to transfer from the general fund an amount sufficient to make the payment.

Section 7. There is a new section to be numbered 82-3315.7, R.C.M. 1947, which reads as follows:

82-3315.7. **Awarding contract.** In awarding a contract, the department of administration shall follow the same procedures that are required for the award of a contract to construct a state-owned building. The department shall have the authority to reject any and all bids.

Section 8. There is a new section to be numbered 82-3315.8, R.C.M. 1947, which reads as follows:

82-3315.8. **Compliance with state laws and regulations.** All build-

ings built or leased or purchased under this act must comply with all laws, safety codes, rules and regulations of the state of Montana.

Section 9. Section 82-1918, R.C.M. 1947, is amended to read as follows:

"82-1918. **Contracts limited to three years — building laws.** (1) No contracts, except *as otherwise provided by law*, shall be made for a longer period than three (3) years and such contract shall provide for the delivery of such articles at such times and in such quantities as the purchasing agent may determine.

(2) All buildings built or leased or purchased under this act must comply with all laws, safety codes, rules and regulations of the state of Montana."

Section 10. This act is effective upon passage and approval.

Approved March 21, 1974

## CHAPTER NO. 243

AN ACT AMENDING SECTIONS 8-108, 8-109, 8-110 AND 8-111, R.C.M. 1947, TO FINANCE DISSEMINATION OF NOTICE OF PUBLIC HEARINGS REGARDING THE PUBLIC CONVENIENCE AND NECESSITY FOR GRANTING MOTOR CARRIER AUTHORITY; TO PROVIDE FOR THE PUBLICATION OF SUCH NOTICE IN THE LEGAL ADVERTISING SECTION OF APPROPRIATE NEWSPAPERS; AND ADDING TWO (2) NEW SECTIONS TO TITLE 8, R.C.M. 1947, TO PROVIDE FOR THE GIVING OF SUCH NOTICE TO THE MONTANA CONSUMER COUNSEL; AND TO MAKE REFERENCE TO THE AVAILABILITY OF THE MONTANA CONSUMER COUNSEL IN NOTICES OF HEARINGS.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 8-108, R.C.M. 1947, is amended to read as follows:

"8-108. **Certificate required of class A motor carriers — contents of application — fee.** (a) No class A motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the board, under the provisions of this act, a certificate declaring that public convenience and necessity require such operation.

(b) A motor carrier making application for such certificate shall do so in writing, separately for each route, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highway or highways over which, and the fixed termini between which, or the regular route or routes over which it intends to operate.

3. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

4. The proposed time schedule.

5. A schedule of the tariff or rates desired to be charged for the transportation of freight and/or passengers.

6. A complete and detailed description of the property proposed to be devoted to the public service.

7. A detailed statement showing the assets and liabilities of such applicant.

8. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a filing fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, *and an additional sum to be set by the board to pay the cost of publishing hearing in the legal advertising sections of an appropriate newspaper or newspapers.*"

Section 2. Section 8-109, R.C.M. 1947, is amended to read as follows:

**"8-109. Certificate required of class B motor carriers — contents of application — fee.** (a) No class B motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway, in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operations.

(b) A motor carrier making application for such permit shall do so in writing, separately for each locality for which consideration is desired, which petition shall be verified and shall specify the following matters:

1. Name and address of the applicant and the names and addresses of its officers, if any.

2. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

3. The locality and character of operations to be conducted.

4. A schedule of the tariff of rates desired to be charged for the transportation of freight and/or passengers.

5. A complete and detailed description of the property proposed to be devoted to the public service.

6. A detailed statement showing the assets and liabilities of such applicant.

7. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a filing fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, *and an additional sum to be set by the board to pay the cost of publishing notice of hearing in the legal advertising sections of appropriate newspaper or newspapers.*"

Section 3. Section 8-110, R.C.M. 1947, is amended to read as follows:

**"8-110. Certificate required of class C motor carriers — contents of application — fee.** (1) (a) No class C motor carrier as in this act defined, except any class C motor carrier operating pursuant to the terms and conditions of a United States government contract, agency or department thereof, shall hereafter operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities, or for the transportation of persons on any public highway in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operation.

(b) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highways or highways over which and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed; or the particular city, town, station, or locality from and/or to which the applicant intends to operate.

3. The kind of transportation, the character of the goods, wares, merchandise, or commodities to be distributed, delivered or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery or collection.

4. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a fee of fifteen dollars (\$15.00) to thirty-five dollars (\$35.00) to be set by the board based on the number of counties for which the certificate is requested, *and an additional sum to be set by the board to pay the cost of publishing notice of hearing in the legal advertising sections of an appropriate newspaper or newspapers.*

(2) The transportation for hire of any persons or commodities between any two (2) points within the state of Montana by any motor carrier pursuant to the terms of a written contract between said carrier and the United States government, agency or department thereof, shall be deemed a transportation movement subject to the provisions of the Montana Motor Carrier Act, R. C. M., 1947, 8-101 et seq., provided, however, that the presentation of the written contract to the board shall be deemed sufficient proof of public convenience and necessity in accordance with the terms and conditions contained within the United States government contract.

The class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government contract may be issued by the board upon receipt of an executed copy of the United States government contract. The certificate of public convenience and necessity may be issued thereafter without requiring the board to fix a time and place for public hearing.

The certificate of public convenience and necessity, issued pursuant to the terms of the United States government contract, is authorized only for the duration of the United States government contract concerned, provided, however, the certificate may be renewed for another definite term if the same motor carrier is the motor carrier authorized to operate under the United States government contract."

Section 4. Section 8-111, R.C.M. 1947, is amended to read as follows:

**"8-111. Hearing to consider applications — notice — matters considered — manner of conducting hearings.** Upon the filing of such application by a class A or class B or class C motor carrier, except a class C motor carrier authorized to operate under the terms of a United States government contract, agency or department thereof, the board shall fix a time and place for hearing thereon, which shall not be less than ten (10) days after such filing. The board shall cause a copy of such petition and notice of hearing thereon to be served upon an officer or owner of any motor carrier that in the opinion of the board might be affected by the granting of any such certificate and upon any railroad company operating into or through any town or city located on the proposed route of the applicant, and upon the state highway commission, at least ten (10) days before the date of hearing, and any such motor carrier or railroad company, and the state highway commission, and the governing board or boards of any such county, town or city into or through which such route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to such proceedings, and may offer testimony for or against the granting of such certificate. *Notice of such hearing shall be published in the legal advertising section of a local newspaper or newspapers deemed by the commission to have a circulation sufficient to reach the consuming public in the area under consideration, for applications for class C authority and geographically limited class B authority, and in appropriate newspapers deemed by the commission to have sufficient statewide circulation in the case of applications for class A authority and geographically broad contemplated class B authority.* The submission of a class C motor carrier application must be accompanied by the names and addresses of any person, firm, corpora-

tion or other legal entity with whom the applicant has executed a contract for the distribution, delivery or collection of wares, merchandise or commodities, or transporting persons. Such contracts must be in writing, executed by the parties, and submitted to this commission for examination. The contracting parties must appear and offer testimony in support of the applicant. If after hearing upon application for a certificate, the board shall find, from the evidence, that public convenience and necessity require the authorization of the service proposed, or any part thereof as the board shall determine, a certificate therefor shall be issued. In determining whether or not a certificate should be issued, the board shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad, or other existing transportation agency, and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout twelve (12) months of the year and the effect which such proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby. Provided, however, that an application by a class A or a class B or a class C motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the board that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the board that public convenience and necessity do not require such proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over said route or in said territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require such motor carrier operation.

Provided further that any investigation, inquiry or hearing which the board has power to undertake or to hold, under the provisions of this act, may be undertaken or held by or before any member of the board, or by and before any agent or examiner of the board designated for the purpose by the board, and every finding, order, or decision made by a member of the board, or agent or examiner of the board so designated, together with a statement in writing of the reasons therefor which statement must be included in such finding, or order or decision, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the board and ordered filed in its office, shall be, and be deemed to be the finding, order or decision of the board; provided also, that any agent or examiner of the board designated as aforesaid, shall have power to administer oaths, examine witnesses and receive evidence."

Section 5. There is a new section to be numbered 8-901, R.C.M. 1947, which reads as follows:

**8-901. Notice to be served on consumer counsel.** In addition to all other forms of notice of hearings conducted by the public service commission provided for in this title, notices of all hearings shall be served upon the Montana consumer counsel.

Section 6. There is a new section to be numbered 8-902, R.C.M. 1947, which reads as follows:

8-902. **Notice to advise public of availability of consumer counsel.** All forms of notice of public hearings conducted by the public service commission under this title, including all notices posted in public places or published in the legal advertising sections of newspapers, shall advise members of the consuming public of the existence of the office of the Montana consumer counsel and its availability to function on behalf of members of the consuming public.

Approved March 21, 1974

## CHAPTER NO. 244

AN ACT AMENDING SECTION 59-1603, R.C.M. 1947, TO PROVIDE THAT ANY AGREEMENTS INVOLVING UNION SECURITY MUST SAFEGUARD THE RIGHTS OF NONASSOCIATION OF EMPLOYEES BASED ON BONA FIDE RELIGIOUS TENETS.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 59-1603, R.C.M. 1947, is amended to read as follows:

**"59-1603. Employees' right to join or form labor organization and engage in collective bargaining activities.** (1) Public employees shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion.

(2) Public employees and their representatives shall recognize the prerogatives of public employers to operate and manage their affairs in such areas as but not limited to:

- (a) direct employees;
- (b) hire, promote, transfer, assign, and retain employees;
- (c) relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and non-productive;
- (d) maintain the efficiency of government operations;
- (e) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
- (f) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
- (g) establish the methods and processes by which work is performed.

(3) Labor organizations designated in accordance with the provisions of this act are responsible for representing the interest of all employees in the exclusive bargaining unit without discrimination for the purposes of collective bargaining with respect to rates of pay, hours, fringe benefits, and other conditions of employment.

(4) Certification as an exclusive representative shall be extended or continued as the case may be only to a labor or employee organization the written bylaws of which provide for and guarantee the following rights and safeguards and whose practices conform to such rights and safeguards as: provisions are made for democratic organization and procedures; elections are conducted pursuant to adequate standards and safeguards; controls are provided for the regulation of officers and agents having fiduciary responsibility to the organization; and requirements exist for maintenance of sound accounting and fiscal controls including annual audits.

(5) *No public employee who is a member of a bona fide religious sect, or division thereof, the established and traditional tenets or teachings of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment, if such public employee pays, in lieu of periodic union dues, initiation fees, and assessments, at the same time or times such periodic union dues, initiation fees, and assessments would otherwise be payable, a sum of money equivalent to such periodic union dues, initiation fees, and assessments, to a nonreligious, nonunion charity designated by the labor organization. Such public employee shall furnish to such labor organization written receipts evidencing such payments and failure to make such payments or furnish such receipts shall subject the employee to the same sanctions as would nonpayment of dues, initiation fees or assessments under the applicable collective bargaining agreement.*

*A public employee desiring to avail himself or herself to the right of nonassociation with a labor organization as provided in this subsection shall make written application to the chairman of the board of personnel appeals. Within ten days of the date of receipt of such application, the chairman shall appoint a committee of three (3) consisting of a clergyman not connected with the sect in question, a labor union official not directly connected with the labor organization in question and a member of the public at large, who shall be the chairman. The committee shall, within ten (10) days of the date of its appointment, meet at the locale of either the employee's residence or place of employment and, after receiving written or oral presentations from all interested parties, determine by a majority vote whether or not such public employee qualifies for the right of nonassociation with such labor organization. The committee's decision shall be made in writing within three (3) days of the meeting date and a copy thereof shall be forthwith mailed to such public employee, labor organization and the chairman of the board of personnel appeals."*

Approved March 21, 1974

## CHAPTER NO. 245

MONTANA MODEL LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.

*Be it enacted by the Legislature of the State of Montana:*